

VETERINARY MEDICAL BOARD

INITIAL STATEMENT OF REASONS

Hearing Date: April 26, 2006

Subject Matter of Regulations: Clarify and Expand Registered Veterinary Technician Job Tasks

Section(s) Affected: 2032.4, 2034, 2036, and 2036.5

Specific Purpose of each adoption, amendment, or repeal

The specific purpose of this regulatory proposal is to amend existing regulations and adopt new regulations relating to the job tasks that can be performed by registered veterinary technicians (RVT), to clarify the pre-anesthetic examination requirements for animals scheduled for anesthesia related services and to clarify the requirements for observation of an animal recovering from anesthesia. The proposal also makes minor grammatical changes to sections, to make them clearer to understand, but does not change the intent of the existing language.

Section 2032.4

Amend Section 2032.4 (b)(1)

This amendment will change the pre-anesthetic examination requirement from 12 hours prior to surgery, to 12 hours prior to the administration of general anesthesia. This change requires that each animal is examined prior to general anesthesia, thus ensuring the animal's anesthetic risk is evaluated prior to anesthesia and the anesthesia protocols are adjusted for the animal's specific condition.

Amend Section 2032.4 (b)(2)

Relative to the change in subsection (b)(1), the Board is proposing a clarifying change relating to animal safety after anesthesia. The Board is proposing a minor language change in subsection (b)(2) by deleting the language "appropriate to the species."

Section 2034

Amend Section 2034 (b)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Amend Section 2034 (c)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Amend Section 2034 (d)

This proposed amendment is a grammatical change for purposes of clarification and consistency. is amendment does not change the intent of the existing language.

Adopt Section 2034 (h)

This language establishes a legal definition of “administer.” Currently, this term is not defined in the California Veterinary Medicine Practice Act. In response to legal challenges regarding the term “administer,” the Board believes that it is necessary to define this term in law.

Adopt Section 2034 (i)

This amendment establishes a legal definition of “induce.” Currently, this term is not defined in the California Veterinary Medicine Practice Act. In response to legal challenges regarding the term “induce,” the Board believes that it is necessary to define this term in law.

Section 2036

Amend Section 2036 (b)

This amendment deletes redundant regulatory language. The deleted language is stated in California Code of Regulations Section 2034 (e).

Amend Section 2036 (b)(1)

This amendment removes the limitation of anesthesia induction by registered veterinary technicians to only inhalation and intravenous injection. It expands the scope of authority for RVTs to include anesthesia induction by any means. It is consistent with the proposed amendment to Section 2034(i) establishing the legal definition of “induce.”

Amend Section 2036 (b)(2)

This amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Amend Section 2036 (b)(3)

This is amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Amend Section 2036 (b)(4)

This amendment expands the scope of authority for RVTs to include suturing of cutaneous and subcutaneous tissues and gingival and oral mucous membranes.

Adopt Section 2036 (b)(5)

This proposed regulation creates a new task that can be performed by RVTs under direct supervision of a licensed veterinarian. It would restrict the performance of “creating a relief hole” in the skin to facilitate placement of an intravascular catheter to veterinarians and RVTs.

Adopt Section 2036 (b)(1)

The proposed language would replace existing section 2036 (b)(1) effective January 1, 2012: The proposed regulation would, effective January 1, 2012, restrict to veterinarians and RVTs under direct supervision of a licensed veterinarian, the administration of anesthesia, including induction, maintenance and monitoring. The delayed implementation date is designed to address concerns from the profession of a shortage of RVTs and to give potential RVTs time to become eligible for the state examination and to become registered.

Adopt Section 2036 (b)(6)

Delayed adoption of 2036(b)(6) allows time for adequate numbers of RVTs to be trained, registered and available in the workplace. Effective January 1, 2012: This proposed regulation restricts the administration of intravenous cytotoxic antineoplastic chemotherapy drugs to veterinarians or RVTs under direct supervision.

Adopt Section 2036 (c) and (c)(1)

This proposed regulation would restrict the administration of controlled substances by injection to licensed veterinarians or RVTs under direct or indirect supervision of a licensed veterinarian.

Amend Section 2036 (c) and renumber to Section 2036 (d)

This amendment will delete duplication in regulatory language. The deleted language duplicates what is stated in California Code of Regulations Section 2034 (f). It also rennumbers the section from 2036(c) to Section 2036(d)

Amend Section 2036.5 (b)

This amendment deletes redundant regulatory language. The deleted language is stated in California Code of Regulations Section 2034 (e). The language was grammatically modified for purposes of clarification and consistency.

Problem Addressed

Business and Professions Code section 4808 gives the Veterinary Medical Board (Board) the authority to adopt regulations necessary to carry out the provisions of the Business and Professions Code relating to the Board.

Section 2032.4 (b)(1)

The current regulations require a physical examination prior to general anesthesia only when an animal is undergoing surgery. Based on the inherent risk associated with the use of general anesthesia in animal patients, the Board is proposing to amend the regulations to require a pre-anesthetic examination prior to the use of general anesthesia regardless of the procedure being performed. Each animal's anesthesia risk must be evaluated immediately prior to the procedure so that the anesthesia protocol can be adjusted to the animal's specific condition. The Board has determined that an animal may have pre-existing conditions that could compromise its safety if not identified prior to anesthesia, e.g., congestive heart failure, asthma, etc.

In addition, in veterinary medicine, there are many non-surgical treatments that require general anesthesia for restraint of the patient, e.g., ear flush, teeth cleaning, or even routine procedures in a fractious patient. Therefore, there is a need to determine the patient's anesthetic risk prior to the administration of anesthetic drugs. The Board has determined that these changes may result in a reduction of incidents of harm or death to animals undergoing general anesthetic procedures.

General anesthesia is used more frequently in veterinary medicine than in human medicine because it is required in many cases for restraint purposes to insure the safety of the patient and the hospital staff.

Section 2032.4 (b)(2)

The Board has determined that this language is unclear and that every animal patient should be observed for a length of time appropriate for its safe recovery. A failure to observe an animal patient who is recovering from general anesthesia may result in harm to or death of the animal.

Section 2034 (b)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Section 2034 (c)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Section 2034 (d)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Section 2034 (h)

This adoption creates a legal definition for "administer." Currently, this term is not defined in the California Veterinary Medicine Practice Act. Because of this omission, the Board has faced legal challenges regarding who is allowed to administer. The Board has determined that codifying the definition of "administer" may prevent future legal challenges.

Section 2034 (i)

This adoption creates a definition for "induce." Currently, this is not defined in the California Veterinary Medicine Practice Act. Because of this omission, the Board has faced legal challenges regarding who can induce anesthesia. The Board has determined that codifying the definition of "induce" may prevent future legal challenges.

Section 2036 (b)

Pursuant to the Administrative Procedures Act, regulatory language must meet the following standards: authority, reference, consistency, clarity, non-duplication and necessity. To comply with the non-duplication standard, the Board has determined that listing the direct supervision requirement twice is not necessary.

Section 2036 (b)(1)

This amendment is based on evidence in the most current Practice Analysis of the high levels of harm involved in the task of anesthesia induction and it is consistent with the proposed amendment to Section 2034(i) establishing the legal definition of “induce.”

Section 2036 (b)(2)

This proposed amendment is a grammatical change for purposes of clarification and consistency. The amendment does not change the intent of the existing language.

Section 2036 (b)(3)

This proposed amendment is a grammatical change for purposes of clarification and consistency. The amendment does not change the intent of the existing language.

Section 2036 (b)(4)

The particular tasks included in the proposed amendment were identified as tasks that had a lower potential for patient harm, but as tasks that require advanced training, e.g., an RVT. This advanced training is a required component of California approved RVT programs and the California state certification examination.

Section 2036 (b)(5)

This proposed regulation expands the scope of authority for RVTs by authorizing an RVT to create a relief hole in the skin for the specific purpose of facilitating placement of an intravascular catheter. The Board believes that this limited procedure does not constitute surgery as defined by Business and Professions Code, Section 4826(d). This procedure may be necessary to create an access hole in cases of severe dehydration, low blood pressure, shock or other conditions that prevent normal placement of the intravascular catheter. In addition, new, multi-lumen catheters require a significantly larger access hole in the skin to facilitate catheter placement. The placement procedure requires advanced training such as that received by RVTs.

Section 2036 (b)(6)

Because of the inherent risk involved in the use of chemotherapy drugs, the Board has determined that only personnel who have been tested to measure minimum competency should administer them. Allowing lay personnel to administer chemotherapy drugs could have serious detrimental effects to both the animal patient and the lay personnel.

The Practice Analysis identifies several sections where the level of harm for the tasks listed exceeds 4.0 on the 1-5 scale. Those sections include Anesthesia and Pharmacology. Within those sections, certain tasks stand out as having the highest potential for harm.

“Administer medications by various routes” has a potential for harm score of 4.01, the second highest in the Pharmacology category. Of all the classes of drugs, intravenous cytotoxic antineoplastic chemotherapy drugs have the highest potential for harm. Improper administration and/or handling of these drugs can result in severe tissue damage to the patient and health risks to the staff. Anyone handling and/or administering these drugs needs to be familiar with safety protocols and administration techniques. They also need to be familiar with potential adverse effects and treatments for those effects. RVTs are educated and tested in pharmacology, routes of administration and the recognition of and treatments for adverse effects.

Delayed adoption of 2036(b)(6) addresses concern voiced by the profession of an inadequate number of RVTs to allow time for adequate numbers of RVTs to be trained, registered and available in the workplace.

Section 2036 (b)(1)

Under current law, it is possible for lay personnel to be alone with and solely responsible for an anesthetized patient. The Board has determined that due to its high potential for harm or death of an animal, that all aspects of the administration of anesthesia should be restricted to licensed or certified personnel.

In the Practice Analysis, virtually all of the tasks in the “Anesthesia” section received a score of 4 or above, “monitoring the patient during anesthesia” scored the second highest (4.72), even higher than induction, a task already restricted to RVTs. (Attending to anesthetic emergencies scored the highest – 4.74.) Patients may be anesthetized for anywhere from a few minutes to several hours in a veterinary setting. During the maintenance phase, it is critical that the individual doing the monitoring understands the stages of anesthesia, how to use the monitoring equipment, the physiologic effects of different anesthetic agents, and the significance of the patient’s cardiac and respiratory readings. The person monitoring the patient must also know when and how to intervene in an emergency. RVTs are educated and tested in all aspects of anesthesia, including induction, maintenance, monitoring and recovery. Certification insures that they possess the minimum competency necessary to carry out these vital functions.

The Board believes that the risk of harm in the use of general anesthetic drugs is such that the requirement is necessary. However, a delayed implementation date is proposed to address concerns from the profession that there is an insufficient number of California certified RVTs to meet the practical staffing requirements of this proposed change. In recent years there have been new training programs developed that enable existing veterinary hospital personnel to become certified RVTs through a combination of practical experience and postsecondary education that are expected to offset the

current shortage within three to five years.

Amend Section 2036 (c) and renumber to Section 2036 (d)

Pursuant to the Administrative Procedures Act, regulatory language must meet the following standards: authority, reference, consistency, clarity, non-duplication and necessity. To comply with this requirement, the Board has determined that listing the direct supervision requirement twice is not necessary.

Adopt Section 2036 (c) and (c)(1)

Due to the high potential for harm with controlled substance drugs, it is essential to restrict their use to certified personnel when the supervising veterinarian is not present. Injectable controlled drugs have a high potential for abuse, diversion and harm to the patient if not handled correctly.

Under Pharmacology, the task with the highest score (4.35) is “calculate dosages and volumes of prescribed medications.” While individual medications are not listed in the survey, of all the drugs utilized in a veterinary setting, injectable controlled drugs have the highest potential for abuse, diversion and harm to the patient.

RVTs are educated and tested in the calculation of drug dosages, pharmacology, controlled drug handling and regulations. They also undergo background checks before being certified. With the increased awareness of the need for pain control in veterinary medicine over the past 25 years, there is a greatly increased and growing use of controlled drugs. Restricting the management of controlled drugs to licensed and certified personnel helps to ensure both patient and public safety.

Relative to the high potential for diversion of controlled substance drugs, RVTs are required to undergo an extensive criminal background check prior to certification. There is no such requirement for lay personnel.

Section 2036.5 (b)

This proposed amendment is a grammatical change for purposes of clarification and consistency. This amendment does not change the intent of the existing language.

Factual Basis/Rationale

Business and Professions Code section 4836 specifies that the Board shall adopt regulations establishing the job tasks and appropriate level of supervision required for those tasks that may be performed only by a registered veterinary technician. The Board first adopted RVT tasks in 1980. The regulations were amended in 1982 and there have been no changes in the specific tasks since that date. In 2002, the Board amended the regulations to redefine the location where tasks could be performed under indirect supervision of a licensed veterinarian. The amendment did not change the tasks, merely the location where the tasks could be performed.

Over the last twenty-five (25) years, the evolution of veterinary medicine has been dramatic. In response to the evolution of veterinary medicine and to meet its mandate of providing optimal consumer protection in California, the Board conducts Practice Analyses of the state board examinations for veterinarians and RVTs every 5-7 years. The Practice Analyses are designed to validate state licensing examinations, to insure that they are current, to identify critical tasks being performed in the workplace and the levels of harm for each task and to insure that the examinations measure minimum entry-level competency.

The Veterinary Medical Board and other boards within the Department of Consumer Affairs, rely on the experts within the Office of Examination Resources (OER) to develop and validate these formal Practice Analyses. The OER establishes the criteria under which the survey questionnaires are developed and the population of licensees to whom it should be sent to insure the most valid response.

In 2000, the Board completed a Practice Analysis, performed by the OER, for the state board examination for RVTs. That Practice Analysis identified tasks being performed in veterinary facilities and the level of harm associated with each task. In considering the proposed regulatory amendments, the Practice Analysis on the RVT state board examination was one of the criteria upon which the Board in determining that the level of harm was sufficient to warrant consideration of further legal restriction to a person who had been determined to possess a minimum level of competency via the through the state licensing process – a licensed veterinarian or registered veterinary technician.

The consumer complaint process is another way in which the Board monitors changes in the veterinary medical profession, e.g., problems with the administration or induction of anesthesia. Restricting specific tasks to licensed or registered personnel is limited to instances where the task involves a potential or actual level of harm such that a reasonable consumer would not be able to determine competency of the individual performing the tasks. It is the responsibility of the Board to not only identify such tasks, but to insure that the persons performing these tasks legally demonstrate competence prior to performing the tasks in order to minimize adverse consequences and insure the public's safety.

A specific enforcement case involving a question regarding the terms “administer” and “induce” relative to anesthesia resulted in the Board requesting information from the profession via the California Veterinary Medical Association. The proposed changes in Sections 2032.4 and 2036(b)(1) are a result of that collaborative effort.

Since the RVT job tasks had not been reviewed since 1982, the Board, in addition to the proposed changes relative to anesthesia and the legal findings in the enforcement case, asked the Registered Veterinary Technician Committee (RVTC) to evaluate all of the job tasks and to conduct a series of informal hearings to gather public input on any proposed changes.

The RVTC evaluated the data extracted from the practice analyses and the complaint review process and held five informal public hearings at its meetings in October 2004, January 2005, April 2005, July 2005 and October 2005. The proposed language evolved at each meeting and the RVTC submitted it to the Board on January 2006 with a recommendation for a formal public hearing in April 2006. The Board adopted the proposed language and referred the matter to staff to prepare the notice and schedule a public hearing.

Each proposed change is based on one or more of the following; input from the profession and the public during the public meetings listed above, data from the Practice Analysis, the enforcement process and/or underlying data submitted during the public meetings. The amendments clarify existing law, expand two of the current RVT job tasks and restrict two additional tasks to only veterinarians or RVTs based on levels of harm. The Board's priority in proposing these changes is ensuring public and animal safety.

This regulatory proposal makes existing regulations more specific and clear as to the allowable procedures for general anesthesia to ensure an animals safety and identifies tasks that must be restricted to RVTs.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

- Department of Consumer Affairs, Office of Examination Resources, RVT Occupational Analysis – September 2004
- Registered Veterinary Technician Survey Comments, 2004
- Department of Consumer Affairs, Office of Examination Resources, Additional Analysis re: Harm/Importance Factor – September 27, 2004
- Minutes of RVT Committee Meeting October 2004
- Minutes of RVT Committee Meeting January 2005
- Minutes of RVT Committee Meeting April 2005
- Minutes of RVT Committee Meeting July 2005
- Minutes of RVT Committee Meeting October 2005
- Minutes of RVT Committee Meeting January 2006
- Business and Professions Code Section 4836
- Informational Letters from:
 1. Scout's House – December 12, 2004
 2. Companion Animal Hospital – January 11, 2005
 3. Bay Area Veterinary Technicians Association – June 6, 2005
 4. Foothill College, Veterinary Technology Program – June 27, 2005
 5. California Veterinary Medical Association – July 8, 2005
 6. Patty Boge, DVM – December 21, 2005

Business Impact

This regulation may have a beneficial, adverse or no significant economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The Board has determined that designating additional tasks to be restricted to only veterinarians or RVTs may require veterinary facilities to either replace existing lay personnel with certified RVTs or require lay personnel to be trained and certified which may result in additional costs for the premises. The Board believes that the need for the additional requirements to insure consumer and animal safety outweighs the potential for increased costs and that the risk of harm in the use of general anesthetic and chemotherapy drugs is such that the requirement is necessary. However, a delayed implementation date is proposed to address concerns from the profession that there is an insufficient number of California certified RVTs to meet the practical staffing requirements of this proposed change. In recent years there have been new training programs developed that enable existing veterinary hospital personnel to become certified RVTs through a combination of practical experience and postsecondary education that are expected to offset the current shortage within three to five years.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Status Quo: no change may result in animal harm;
2. No new tasks identified, just clarify existing tasks: the Board would not be keeping current with technological advances and changes in veterinary medicine that may result in animal harm.